

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EUGENE EDWARD BANGHART,	:	CIVIL ACTION NO. 1:04-CV-0920
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
COMMISSIONER OF SOCIAL SECURITY	:	
	:	
Defendant	:	

ORDER

AND NOW, this 21st day of September, 2005, upon consideration of the report and recommendation of the magistrate judge (Doc. 14), recommending denial of an appeal from a decision of the Commissioner of Social Security ("Commissioner"), and of plaintiff's objections (Doc. 15) thereto, proffering additional evidence of medical maladies and asserting that the Commissioner erred in relying upon the testimony and records of physicians other than plaintiff's family doctor, and it appearing that the additional evidence was not before the administrative law judge, see Matthews v. Apfel, 239 F.3d 589, 594 (3d Cir. 2001) ("[E]vidence that was not before the [administrative law judge] cannot be used to argue that the [administrative law judge's] decision was not supported by substantial evidence."), and is unsubstantiated and immaterial, see Szubak v. Sec. of Health and Human Serv., 745 F.2d 831, 833 (3rd Cir. 1984) ("[N]ew evidence [must] relate to the time period for which benefits were denied, and not concern evidence of a later-acquired disability or of the subsequent deterioration of the previously

non-disabling condition.”); Woolfolk v. Comm’r of Soc. Sec., 89 Fed. Appx. 766, 768 (3d Cir. 2004) (same), and it further appearing that there is substantial evidence of record contradicting the opinions offered by plaintiff’s family physician and supporting the Commissioner’s decision, see 42 U.S.C. § 405 (“The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive.”); see also Plummer v. Apfel, 186 F.3d 422, 429 (3d Cir. 1999) (“An [administrative law judge] may reject a treating physician’s opinion outright [] on the basis of contradictory medical evidence, [or] may afford a treating physician’s opinion more or less weight depending upon the extent to which supporting explanations are provided.”); Morales v. Apfel, 225 F.3d 310, 317 (3d Cir. 2000) (same), it is hereby ORDERED that:

1. The report and recommendation of the magistrate judge (Doc. 14) is ADOPTED.
2. The appeal from the decision of the Commissioner of Social Security is DENIED.
3. The Clerk of Court is directed to CLOSE this case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge